

REMARKS/ARGUMENTS

Reconsideration of the present application is hereby requested. Claims 2, 4-9, 11, 13-21, and 26-36 are pending in the application.

Applicant has enclosed herewith an RCE with amended claims in response to the final office action of January 25, 2006. It is felt that these claims overcome the various rejections provided by the Examiner. The Examiner has relied upon the Ou-Yang '577 reference in rejecting many of the claims in combination with the Ou-Yang '273 reference as well as other basis for rejections. Applicant respectfully traverses all basis of the prior rejections. The Ou-Yang '577 reference is directed towards the use of a heat fill (not a retort process) package and closure which thereby allows the use of a polymeric foam material as the seal. This foam material is unsuitable however for a retort process due to the temperatures involved and issues of expansion of the foam and air material during the process. The '577 reference is specifically directed towards Polymeric Foamed Liners which are taught as being polymers and copolymers of olefins for use in heated liquid fill, not heating after filling and in no way teaches a combination of the material set forth in the presently pending claims. The Ou-Yang '273 does not aid in the lack of this teaching in that the '273 reference is directed towards the use paper or foam as a first layer in a seal with a pressure sensitive adhesive as a second layer and is specifically directed at an adequate pressure sensitive adhesive for use in such operations. This reference further teaches against using any type of heating operation as the adhesive necessary for bonding of the materials is pressure activated, not heat activated and would necessarily fail at positive pressure application. ("Because the adhesive of the innerseal

is activated by pressure, expensive heating equipment is not required.”) (see col. 6, lines 34-36). Further neither of these references teach the use a combination of materials such as rubber and polypropylene as variously set forth.

The Examiner has further cited to the Markovich ‘507 reference as aiding in the lack of teaching or suggestion not found in the ‘577 reference in the rejection of claims 2, 3, 29 and 30. However, the ‘507 reference is again directed towards Foamed Gaskets which are unsuitable for utilization in retort processing due to the expansion of the seal and materials used. Further, the use of such Foamed Gaskets teaches away from the combination of the seal material presently described in that nothing within the ‘507 reference discloses the combination of materials which can withstand the temperatures and positive pressures of retort processing and in particular utilization of the thermoset and thermoplastic materials variously set forth.

The presently pending independent claims 26, 27 and 28 set forth a liner material which rests within a closure and which can maintain positive pressure on the peelable seal when the container goes through a positive pressure cycle such as retort processing. The materials referred to by the Examiner in all the cited references, the ‘273, ‘577, ‘507, Montgomery ‘323, and Kelly ‘871, teach materials which are not suitable for use in such environments and which do not maintain seal integrity as do the presently claimed materials. None of the references suggested by the Examiner have a peelable seal on which positive pressure must be maintained by the liner during retort processing as the internal container pressure substantially increases and may degrade such seal interface. The materials set forth maintain such contact as presently claimed in combinations not taught or suggested by any of the references cited. It is felt that the dependent claims of

these independent claims are also allowable as significant aspects of the claimed structure are not taught or suggested by any reference relied upon by the Examiner.

The Examiner has noted several other references as being of interest but not relied upon. Applicants have reviewed these prior art references and have determined that none of these references add nor disclose teachings more relevant than the references which have been previously discussed herein. Therefore, further discussion of these additional references does not appear to be warranted.

Applicants' urge that the instant application is now in condition for allowance. However, if the Examiner believes there are other unresolved issues in this case, Applicant's Attorney would appreciate a call at (502) 584-1135 to discuss such remaining issues.

Respectfully submitted,



John F. Salazar, Reg. No. 39353
MIDDLETON REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
(502) 584-1135 phone
(502) 561-0442 fax